

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF TEXAS  
BEAUMONT DIVISION

LUMBERTON HOSPITAL, L.L.C., §  
*Plaintiff,* §  
§  
vs. §  
§ CIVIL ACTION NO. 1:22-cv-00222  
§  
AETNA LIFE INSURANCE §  
CO. §  
*Defendant.* §

**DEFENDANT'S OPPOSED MOTION FOR EXTENSION OF TIME  
TO FILE DISPOSITIVE MOTIONS**

COMES NOW, Defendant Aetna Life Insurance Company (Aetna), who files this Motion for Extension of Time to File Dispositive Motions and would show as follows:

This is a \$16,312.91 dispute in which Plaintiff Lumberton Hospital, L.L.C. (Lumberton) contends that Aetna underpaid Lumberton's \$17,215.57 billed charges for medical services rendered to a member of an Aetna ERISA health plan. (Doc. 2). Under the Court's Scheduling Order (Doc. 13), all dispositive motions are due by December 20, 2022. Recognizing the costs to be borne by both parties in motion practice,<sup>1</sup> Aetna extended a fair offer to settle the matter on December 16, 2022, before engaging in motion practice.<sup>2</sup>

Lumberton declined the offer, not asserting any issue with the offer itself but wanting to include thirty-three other cases against Aetna. While undersigned counsel does not represent Aetna in any of these other cases, undersigned counsel requested information on these cases to be

---

<sup>1</sup> Motion for summary judgment on the ERISA administrative record "must be supported by substantial evidence in the administrative record." *Owens v. W. & S. Life Ins. Co.*, 717 Fed. App'x 412, 415–16 (5th Cir. 2018). When assessing factual questions in benefits cases, "the district court is constrained to the evidence before the plan administrator." *Vega v. Nat'l Life Ins. Servs., Inc.*, 188 F.3d 287, 299 (5th Cir. 1999), *overruled on other grounds by Metro. Life. Ins. Co. v. Glenn*, 554 U.S. 105, 112 (2008).

<sup>2</sup> Pursuant to this Court's Scheduling Order, Doc. 13, Aetna produced the Administrative Record on August 5, 2022. The deadline for Lumberton to object to the completeness of the Administrative Record was September 5, 2022. *Id.* Lumberton never did so, and the Administrative Record is now deemed complete.

transmitted back to Aetna for its consideration. Lumberton has yet to provide that information and, further, adamantly refuses to enlarge the time for dispositive motion practice in order to promote judicial economy. Ironically, Lumberton's position would necessitate its counsel working through the holiday season to oppose Aetna's dispositive motion practice, which undersigned counsel is willing to defer by this Motion.

In light of the impending December 20, 2022 dispositive motion deadline, to allow time for Lumberton to provide the requested information and for Aetna to consider the same, and to conserve judicial resources, Aetna seeks a 30-day extension of time to file dispositive motions. This request is being made solely to promote the efficient administration of justice and possibly expedite resolution of the case. The requested extension will not affect the scheduled trial date.

WHEREFORE, PREMISES CONSIDERED, Aetna respectfully requests the Court to extend the deadline for filing dispositive motions to January 19, 2023.

DATED: December 20, 2022.

Respectfully Submitted,

/s/ Jonathan M. Herman  
Jonathan M. Herman  
TX Bar No. 24052690  
Charles W. Hill  
TX Bar No. 24063885  
HERMAN LAW FIRM  
1601 Elm Street, Suite 4460  
Dallas, Texas 75201  
Telephone: (214) 624-9805  
Facsimile: (469) 383-3469  
[jherman@herman-lawfirm.com](mailto:jherman@herman-lawfirm.com)  
[chill@herman-lawfirm.com](mailto:chill@herman-lawfirm.com)

*Attorney for Defendant Aetna Life Insurance Company.*

**CERTIFICATE OF CONFERENCE**

The undersigned contacted counsel for Lumberton twice by email on December 19, 2022, to obtain Lumberton's agreement to the subject of this Motion. Counsel for Lumberton responded by email on December 20, 2022, indicating that Lumberton opposes the Motion.

*Charles W. Hill*  
Charles W. Hill

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a true and correct copy of the foregoing instrument has been served upon all attorneys of record in this cause of action on December 20, 2022, as follows:

**Via Court's eFile Service**

Zachary W. Thomas  
Robert J. Carty, Jr.  
NICHOLAS BRAR WEITZNER & THOMAS LLP  
2402 Dunlavy Street, Suite 2000  
Houston, Texas 77006  
[zthomas@nicholsbrar.com](mailto:zthomas@nicholsbrar.com)  
[rcarty@nicholsbrar.com](mailto:rcarty@nicholsbrar.com)

*Counsel for Plaintiff*

*/s/ Jonathan M. Herman*  
Jonathan M. Herman